

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
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www.montgomerycountymd.gov/content/council/boa/index.asp

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, October 28, 2009, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, October 7, 2009 Worksession.

Action: Approved, (CJS/SBB, 4-0/DKP/abstained).

2. **A-6274, Appeal of Robin Rice** (Department of Fire and Rescue Services – Letter dated August 18, 2008). Letter to the Board from Mark Rosenberg, Esquire, withdrawing the administrative appeal.

Action: Dismissed the administrative appeal as withdrawn, (SBB/CJS, 5-0).

3. **A-6295, Appeal of Calogero and Yolanda Dipasquale** (Department of Permitting Services (DPS) – Notice of Violation). Letter from the appellant withdrawing the administrative appeal and requesting a refund of the filing fee.

Action: (1) Dismissed the administrative appeal as withdrawn; (2) granted 100% (\$200.) refund of the filing fee, (SBB/DKP, 5-0).

4. **CBA-1174-D, Petition of The Holton-Arms School** (private educational institution). Letter from Elsie Reid, Esquire, in response to questions by the Board regarding the School's annual report and the neighborhood liaison committee.

Action: Re-opened the record to include Ms. Reid's letter, (CJS/WSH, 5-0).

5. **CBA-1504 (CBA-1504-A), Petition of Torsak Rossaki** (automobile filling station). Letter to the Board from Mid-Atlantic Petroleum Properties, LLC, requesting a transfer of the special exception.

Action: Granted the transfer of the special exception, (DKP/WSB, 5-0).

6. **CBA-1667, Petition of Alvin L. Aubinoe** (medical clinic). Memorandum from Heather Gottke, Inspector, DPS, notifying the Board that the special exception is now permitted by right in the zone and requesting that it be revoked. Also included is a letter of confirmation from the petitioner.

Action: Revoked special exception as the use is now permitted in the zone, (DKP/WSB, 5-0).

7. **CBA-1932, Petition of Willco Developers, Inc.** (automobile filling station). Memorandum from Heather Gottke, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from property owner.

Action: Revoked the special exception as abandoned, (WSB/CJS, 5-0).

8. **CBA-2091, Petition of Montgomery Square-Copenhaver Swim Club** (community swimming pool). Letters to the Board from Richard Meyer, President, requesting an administrative modification.

Action: Denied the administrative modification request, (DKP/WSB, 5-0).

9. **CBA-2532, Petition of Mrs. Ida L. Dieffenderfer** (major home occupation). Memorandum from Barbara Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the petitioner.

Action: Revoked the special exception as abandoned, (WSB/SBB, 5-0).

10. **CBA-2694, Petition of Robert C. Hoyer** (private riding stable). Memorandum from Heather Gottke, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the property owner.

Action: Revoked the special exception as abandoned, (WSB/SBB, 5-0).

11. **CBA-2856, Petition of Mary Lytle Rhim** (child day care nursery). Memorandum from Heather Gottke, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the petitioner.

Action: Revoked the special exception as abandoned, (SBB/DKP, 5-0).

12. **S-460, Petition of Barlow Wagaman and Larry H. Gandel** (non-resident medical practitioner). Letter to the Board from Norma Fox, D.D.S., P.A. requesting revocation of the special exception.

Action: (1) Re-opened the record to include Ms. Fox's letter; (2) referred Ms. Fox's letter to DPS to investigate the complaint, (DKP/WSB, 5-0).

13. **S-520, Petition of William D. and Diane R. Grimes** (antique shop). Memorandum from Barbara Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the property owner.

Action: Revoked the special exception as abandoned, (SBB/CJS, 5-0)

14. **S-862 [S-862-A, S-862-B], Petition of Federation of American Societies for Experimental Biology** (private education institution). Letter from Danielle Bouchard, General Manager, submitting the school's annual report.

Action: Re-opened the record to include Ms. Bouchard's letter with the annual report, (CJS/SBB, 5-0).

15. **S-1221, Petition of Jamina D. Ziemnowicz** (accessory apartment). Memorandum from Unray Peters, Inspector, Department of Housing and Community Affairs (DHCA), notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the property owner.

Action: Revoked the special exception as abandoned, (SBB/CJS, 5-0).

16. **S-1926, Petition of Sabriz Naduvilothe** (accessory apartment). Resolution to Suspend Transfer of the Special Exception and Refer Modification to the Hearing Examiner for Public Hearing.

Action: Issue the Resolution to Suspend Transfer of the Special Exception and Refer Modification to the Hearing Examiner for Public Hearing, (CJS/WSB, 5-0).

17. **S-2025, Petition of Christopher M. and Donna M. Lebling** (private riding stable). Memorandum from Barbara Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the property owner.

Action: Revoked the special exception as abandoned, (DKP/WSB, 5-0).

18. **S-2074, Petition of Abdullah and Nadire Demirtas** (accessory apartment). Memorandum from Travis Aldous, Inspector, DHCA, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included a letter of confirmation from the property owner.

Action: Revoked the special exception as abandoned, (DKP/WSB, 5-0).

19. **S-2504, Petition of Sunrise Development, Inc.** (housing for the elderly and handicapped). Letter to the Board from Victoria Khomutetsy requesting an administrative modification.

Action: Item deferred for Sign Review Board approval, consensus.

DECISION ITEM:

20. **S-2747, Petition of Cingular Wireless PCS, LLC and Walter Hungerford** (telecommunications facility). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception with conditions, (CJS/WSB, 5-0).

PENDING ITEMS:

21. **A-6114, Appeal of Newland Communities LLC and NNP II – Clarksburg LLC** (Department of Fire and Rescue Services – Notice of Violation dated September 20, 2005). Second Status Report from Todd Brown, Esquire. (1) Re-opened the record to include the Second Status Report from Todd Brown; (2) the Board will receive Status Reports on 1/15/07 and 4/1/07 [W/S 10/25/06]. (1) Re-opened the record to include the status report from Mr. Brown; (2) Mr. Brown to provide a status/progress report to BOA at its 5/2/07 Worksession [W/S 2/28/07]. Status report from Todd Brown, Esquire [W/S 10/17/07]. Re-opened the record to include the status report from Mr. Brown [W/S 4/2/08].
22. **A-6117, Appeal of Mary Hemingway and Edward Purich for Cloverly Civic Association** (Department of Permitting Services (DPS) – Issuance of Building Permit No. 402806). Opinion and Order from the Circuit Court. (1) Re-opened the record to include the Opinion and Order from the Circuit Court; (2) action by BOA deferred until 7/6/09. [W/S 6/17/09].
23. **CBA-1456-A [CBA-1456], Petition of Lindsay Management Company** (off-street parking). Status report from David Freishtat, Esquire, and Anne Marie Vassallo, Esquire. (1) Re-opened the record to include status report from Mr. Freishtat and Ms. Vassallo; (2) Board to be provided with a status report in 60 days. [W/S 7/15/09]. Approximately September 15, 2009.

PENDING ITEMS (continued):

24. **S-179, David H. Shin (coffee shop).** Letter to the Board from Sook Kim requesting a transfer of the special exception. Item deferred for additional information regarding ownership of special exception property. [W/S 6/25/08].
25. **S-289-B [S-289, S-289A], Petition of the Little Falls Swim and Tennis Club** (community swimming pool). Letter to the Board from Susan Valenstein, President, requesting an administrative modification. (Large exhibits: revised landscape plan/5 sheets and a lighting plan). (1) Granted temporary approval of the administrative modification; (2) Board will review the administrative modification request with the Club's submission of its annual report in December 2009. [W/S 10/7/09].
26. **S-894, Petition of Joan C. Wright** (major home occupation). Letter to the Board from the petitioner requesting an administrative modification. Item deferred for additional information regarding the number of employees, size of the workspace, renewal period. [W/S 3/11/09].
27. **S-1791, Petition of Melissa Martell Taylor** (private educational institution). Letter to the Board from Terry Lewis requesting a transfer of the special exception. Item deferred for (1) statement of operations; (2) confirmation the special exception will be operated in conformance with the Board's Opinion; (3) confirmation of the special exception holder. [W/S 9/10/08].
28. **S-2141, Petition of Bannockburn Swim Club, Inc.** (community swimming pool). Letter from John Chadwick, Pool Board Representative-Improvements, submitting the additional information requested by the Board for an administrative modification. [Large exhibit: site plan]. Item deferred to determine if administrative modification is subject to a forest conservation requirement. [W/S 4/2/08].
29. **S-2145, Petition of Southwestern Bell Mobile Systems, Inc.** (telecommunications facility). Letter to the Board from Karmen Rajamani, Zoning Manager, requesting a transfer of the special exception. Item deferred for confirmation of the transfer from Southwestern Bell Mobil Systems, Inc. [W/S 4/30/08].
30. **S-2651, Petition of Brenneman and Pagenstecher, Inc.** (telecommunications facility). Letter to the Board from Norman Knopf, Esquire, requesting reconsideration of the Board's Resolution dated 9/15/09. Granted the reconsideration request. [w/w 10/7/09].

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